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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/823,563
Filing Date: 03/31/2001
Appellant(s): CAROLYN R. CATAN

Edward W. Goodman (Reg. No. 28,613)
<u>For Appellant</u>

EXAMINER'S ANSWER

This is in response to the appeal brief filed 04/21/2006
appealing from the Office action mailed 08/11/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,615,175   Gazdzinski   9-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed

claims:

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis

for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a
> whole would have been obvious at the time the invention was made to a person having
> ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

2.   Claims 1-3, 5-17 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Gazdzinski et al. (6,615,175) (hereinafter Gazdzinski) in

view of "Official Notice".

3.   As per claims 1, 6, and 13, Gazdzinski discloses a system for

identifying and selecting at least one data resource in a data store, said

system comprising:

an machine-readable reader system (col 4, lines 5-20) with a user

interface for reading MRL data from an MRL (MRL is interpreted as RFID tag

and reader system, col 4, lines 5-20; col 7, lines 27-29);

a resource base having resource (internet or intranet, col 10, lines 23-

59); and

at least one processor connected to said MRL reader for receiving MRL

data from said MRL, and for controlling and receiving data from said user

interface (col 3, lines 19-43, col 4,lines 5-20); said

said at least one processor being programmed to generate a query for

use in searching said resource base responsively to said MRL data (col 7,

lines 27-29, col 3, lines 19-43, col 4,lines 5-20);

said at least one processor being programmed to generate a query to

identify at least one resource matching said query and determine a

confidence (col 9, lines 50-54) level of said matching (col 9, lines 25-54);

and

said at least one processor being programmed such that when said

confidence level (col 9, lines 50-55) is lower than a predetermined (col 9,

line 10) confidence level (col 9, lines 45-65), said at least one processor

receives input from said user interface defining a new resource and stores

(col 6, line 25) said new resource in said resource base or another resource

base (col 9, lines 45-65; col 21, lines 62-67, appended on the library entry

for the first word), wherein said at least one processor identifies a resource

not matching (col 9, lines 50-60) said query by substituting a term in said

query that identifies one of an object associated with said reader (col 19,

lines 1-15), an object associated with an MRL, or another term and searches

responsively to said query for a resource and, upon finding said resource,

generates an output responsive thereto (col 3, lines 19-43, col 4, lines 5-20,

col 9, lines 45-67, col 10, lines 1-12).

Although Gazdzinski shows substantial features of the claimed

invention including reader system, RFID tag, and internet/intranet accessible

information base. Gazdzinski does not explicitly teach a machine-readable

label (MRL), user interface for reading MRL data from an MRL. "Official

Notice" is taken that both the concept and advantages of providing RFID

tag/Smart technology based device can provides scanning from greater

distances than bar code scanning (support for the official notice can be found

in the back ground of the specification of the instant application, page 2). It

would have been an obvious modification to the system disclosed by

Gazdzinski to use RFID tag system interface and process information from

remotely stored resource base.

4.   As per claims 2 and 7, Gazdzinski discloses wherein said MRL includes

a radio transponder or transmitter (col 5, lines 60-63, col 3, lines 19-43, col

4,lines 5-20).

5.   As per claims 3 and 8, Gazdzinski discloses said at least one processor

is programmed such that when said confidence level is higher than said

predetermined confidence level, said at least one processor receives input

from said user interface indicating a desirability of said at least one resource

to said user and to update a preference data store responsively to said input

(col 9, lines 45-65).

6.   As per claims 5 and 10, Gazdzinski discloses wherein said term is a

term characterizing said object associated with said reader (fig 15, col 20,

lines 9 –42).

7.   As per claim 9, Gazdzinski discloses wherein said reader is

programmed such that when said confidence level is lower than said

predetermined confidence level, said at least one processor receives input

from said user

interface defining a new resource and stores said new resource in said

resource base or another resource base (col 9, lines 22-65).

8.   As per claim 11, Gazdzinski discloses wherein said MRL reader is

programmed such that when said confidence level is lower than said

predetermined confidence level, said at least one processor identifies a

generic resource responsive to said object associated with an reader system

(fig 15, col 9, lines 22-65).

9.   As per claim 12, Gazdzinski discloses, wherein said MRL reader is

programmed such that when said confidence level is lower than said

predetermined confidence level, said at least one processor receives input

from said user interface defining a new resource and stores said new

resource in said resource base or another resource base (fig 15, col 9, lines

22-65).

10.   As per claim 14, Gazdzinski discloses, wherein said message suggests

to a user that the user use a different one of an object associated with a

reader and an object associated with an reader system (fig 15, col 20, lines

9 –42).

11.   As per claim 15, Gazdzinski discloses, further comprising the steps of,

when said further confidence level is lower than said predetermined level or

another predetermined level, identifying a generic response using a third

query with fewer terms than said first query or second queries (fig 15, col 9,

lines 22-65).

12.   As per claim 16, Gazdzinski discloses A method of identifying a

resource from a machine-readable reader, comprising the steps of:

        a machine-readable reader attaching resources from a resource base

based on a result of said step of scanning (fig 15, col 9, lines 22-65);

        when a result of said step of input indicates a poor match, outputting

to a user-interface (col 9, lines 46-65, col 3, lines 19-43, col 4,lines 5-20), a

message suggesting to a user to use a different one of said first and second objects (col 9, lines 46-67, col 10, lines 1-12).

Although Gazdzinski shows substantial features of the claimed invention including reader system, RFID tag, and internet/intranet accessible information base. Gazdzinski does not explicitly teach a machine-readable label (MRL). "Official Notice" is taken that both the concept and advantages of providing RFID tag/Smart technology based device can provides scanning from greater distances than bar code scanning. It would have been an obvious modification to the system disclosed by Gazdzinski to use RFID tag system interface and process information from remotely stored resource base.

13.   As per claim 17, Gazdzinski discloses a method of identifying a resource from a machine-readable reader, comprising the steps of:

a machine-readable reader associated with a first object with a reader (col 4, lines 5-20) associated with a second object (fig 15, col 20, lines 9 – 42);

matching resources from a resource base based on identifiers corresponding to said first and second objects resulting from said step of scanning (fig 15, col 9, lines 22-65);

when a result of said step of input indicates a poor match, outputting to a user-interface (col 9, lines 46-65, col 3, lines 19-43, col 4,lines 5-20),

identifying a resource matching resources from a resource base based on

identifiers corresponding to only one of said first and second objects

resulting from said step of scanning (col 9, lines 46-67, col 10, lines 1-12).

Although Gazdzinski shows substantial features of the claimed

invention including reader system, RFID tag, and internet/intranet accessible

information base. Gazdzinski does not explicitly teach a machine-readable

label (MRL). "Official Notice" is taken that both the concept and advantages

of providing RFID tag/Smart technology based device can provides scanning

from greater distances than bar code scanning. It would have been an

obvious modification to the system disclosed by Gazdzinski to use RFID tag

system interface and process information from remotely stored resource

base.

(10) Response to Argument

In general, Appellant's arguments reflect a difference of opinion over the

teachings of the prior art and how these teachings would be evaluated in

light of the knowledge generally available to those in the appropriate art and

the level of ordinary skill in the art. Moreover, Appellant's take an overly

narrow view of the claim language.

In addition, the Appellant's failure to challenge the Examiner's Official

Notice has resulted in the following to be acknowledged as admitted prior

art:

A barcode reader (or barcode scanner) is a computer peripheral for reading

barcodes printed on various surfaces and sending the barcode's content to

the barcode/scanner's output port connected to processor. The concept and

advantages of providing RFID tag/Smart technology based device can

provides scanning from greater distances than barcode reader (support for

the official notice can be found in the back ground of the specification of the

instant application, page 2). Any processor capable of reading input data

from the RFID tag system interface can process information from remote

resource base (example is Cue Cat.RTM as it is explained on pages 1-4 of

the instant application).

On pages 3-4 of the instant application, "one example of a bar-code reader

product aimed at consumers is the Cue Cat.RTM., a reader designed to be

installed on a computer and used to read bar-codes printed in catalogues,

magazine advertisements, and product labels. When a user scans a bar-

code, the code is automatically conveyed through the Internet to a server

that points the user's browser to a web site for that particular bar-code.

The user is saved the trouble of typing in a web address, which could

conceivably be a long one if every product had its own web address, but the

benefit is not much greater than that. Also, web addresses can be

generated for existing products (like a year-old can of peaches in the

cupboard) without the user having to look one up (such as by searching

with a search engine). If the maintainer of the Cue Cat.RTM. service fails

to provide a link for a product, users can suggest a web address. Another

similar proposed application is bar-codes on coupons that take the user to a

`bonus coupon` section on a web site. ",Appellant accepts the searching

with a remote search engine using Cue Cat.rtm.

Appellant's Argument: Gazdzinski in view of "Official Notice" neither

discloses nor suggests "generate a query for use in searching said resource

base responsive to said MRL" (page 11 of the Brief).

Examiner's Response: Gazdzinski discloses at least one processor (1504, fig

15, reader processor sends a data to the processor 106, fig 15, to compare with known

list of known authorized entrants) being programmed to generate a query (1500, fig

15, query is interpreted as an object that requests information from a database

and creates a dataset of the requested information) for use in searching said

resource base (1510, fig 15) responsively to said MRL data (RFID reader receives

signal from RFID tag, then compared by the processor 106, fig 15, to a list of known

authorized user residing in the database 1510, fig 15, col 4,lines 17-20, col 19, lines 4-

21, comparing with the list of known authorized entrants clearly anticipates query

generated by the processor and searching is done in the access database, further the

process of querying and searching is described in fig 16).

Appellant's Argument: There is no disclosure or suggestion in Gazdzinski that resource should be matched from a resource base based on a result of the scanning of the MRL.

Examiner's Response: Gazdzinski discloses that resource should be matched (matching entries found, fig 16, col 19, lines 16-17) from a resource base based on a result of the scanning of the MRL (fig 15 and 16 , col 4, lines 17-20; col 19, lines 4-21, comparing with the list of known authorized entrants clearly anticipates query generated by the processor and matching entries were found).

Appellant's Argument: There is no disclosure and suggestion in Gazdzinski that in the event of "poor match" a message should given to the user a different first object and a different second object (page 12 of the Brief).

Examiner's Response: Gazdzinski discloses that in the event of "poor match" a message should given to the user a different first object (sub system allows user to append the query, col 9, lines 34-37) and a different second object (col 9, lines 41-54, if no matches found system will display the nearest approximation of the query based on confidence level).

Appellant's Argument: Gazdzinski neither discloses or suggests matching resources from a resource base based on a result (i.e., identifiers corresponding to said first and second objects) of the scanning of the MRL there cannot be any

disclosure in Gazdzinski of "identifying a resource matching resources from a resource base based on identifiers corresponding to only one of said first and second objects resulting from said step of scanning" (on page 13 of the Brief).

Examiner's Response: Gazdzinski discloses suggests matching resources from a resource base based on a result (matching entries found, fig 16, col 19, lines 16-17). He further discloses identifying a resource matching resources from a resource base based on identifiers corresponding to only one of said first and second objects resulting from said step of scanning object (col 9, lines 41-54, if no matches found system will display the nearest approximation of the query based on confidence level).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

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07/24/2006

07/19/2006

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